

FIRST REGULAR SESSION

# HOUSE BILL NO. 706

## 92ND GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVES MERIDETH AND DETHROW (Co-sponsors).

Read 1<sup>st</sup> time March 20, 2003, and copies ordered printed.

STEPHEN S. DAVIS, Chief Clerk

2132L.011

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### AN ACT

To repeal section 165.011, RSMo, and to enact in lieu thereof one new section relating to qualified zone academy bonds, with an emergency clause.

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*Be it enacted by the General Assembly of the state of Missouri, as follows:*

Section A. Section 165.011, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 165.011, to read as follows:

165.011. 1. The following funds are created for the accounting of all school moneys: teachers' fund, incidental fund, free textbook fund, capital projects fund and debt service fund. [The treasurer of the school district shall open an account for each fund specified in this section, and] **The debt service fund shall be maintained as a separate bank account.**

(1) All moneys received from the county school fund and all moneys derived from taxation for teachers' wages shall be placed to the credit of the teachers' fund.

(2) **Money received from other districts for transportation and money derived from taxation for incidental expenses shall be credited to the incidental fund.** All tuition fees, state moneys received under sections 162.975, RSMo, and 163.031, RSMo, and all other moneys received from the state except as herein provided shall be placed to the credit of the teachers' and incidental funds at the discretion of the district board of education. [The portion of state aid received by the district pursuant to section 163.031, RSMo, based upon the portion of the tax rate in the debt service or capital projects fund, respectively, which is included in the operating levy for school purposes pursuant to section 163.011, RSMo, shall be placed to the credit of the debt service fund or capital projects fund, respectively. Money received from other districts for transportation and money derived from taxation for incidental expenses shall be credited to the

**EXPLANATION — Matter enclosed in bold faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law. Matter in boldface type in the above law is proposed language.**

17 incidental fund.]

18       **(3)** Money apportioned for free textbooks shall be credited to the free textbook fund.

19       **(4)** All money derived from taxation or received from any other source for the erection  
20 of buildings or additions thereto and the remodeling or reconstruction of buildings and the  
21 furnishing thereof, for the payment of lease-purchase obligations, for the purchase of real estate,  
22 or from sale of real estate, schoolhouses or other buildings of any kind, or school furniture, from  
23 insurance, from sale of bonds other than refunding bonds shall be placed to the credit of the  
24 capital projects fund. All moneys derived from the sale or lease of sites, buildings, facilities,  
25 furnishings and equipment by a school district as authorized under section 177.088, RSMo, shall  
26 be credited to the capital projects fund.

27       **(5)** Money derived from taxation for the retirement of bonds and the payment of interest  
28 thereon shall be credited to the debt service fund [which shall be maintained as a separate bank  
29 account]. **The portion of state aid received by the district pursuant to section 163.031,**  
30 **RSMo, based upon the portion of the tax rate in the debt service fund or capital projects**  
31 **fund, respectively, which is included in the operating levy for school purposes pursuant to**  
32 **section 163.011, RSMo, shall be placed to the credit of the debt service fund or capital**  
33 **projects fund, respectively.**

34       **(6)** Receipts from delinquent taxes shall be allocated to the several funds on the same  
35 basis as receipts from current taxes, except that where the previous years' obligations of the  
36 district would be affected by such distribution, the delinquent taxes shall be distributed according  
37 to the tax levies made for the years in which the obligations were incurred. All refunds received  
38 shall be placed to the credit of the fund from which the original expenditures were made. Money  
39 donated to the school districts shall be placed to the credit of the fund where it can be expended  
40 to meet the purpose for which it was donated and accepted.

41       **(7)** Money received from any other source whatsoever shall be placed to the credit of the  
42 fund or funds designated by the board.

43       2. (1) [The school board may expend from the incidental fund the sum that is necessary  
44 for the ordinary repairs of school property and an amount not to exceed the sum of expenditures  
45 for classroom instructional capital outlay, as defined by the department of elementary and  
46 secondary education by rule, in state-approved area vocational-technical schools and the greater  
47 of twenty-five percent of the guaranteed tax base for the preceding year or two and one-fourth  
48 percent of the district's entitlement for the preceding school year as established pursuant to line  
49 1 of subsection 6 of section 163.031, RSMo, as of June thirtieth of the preceding school year for  
50 classroom instructional capital outlay, including but not limited to payments authorized pursuant  
51 to section 177.088, RSMo. Any and all payments authorized under section 177.088, RSMo,  
52 except as otherwise provided in this subsection, for the purchase or lease of sites, buildings,

53 facilities, furnishings and equipment and all other expenditures for capital outlay shall be made  
54 from the capital projects fund.] If a balance remains in the free textbook fund after books are  
55 furnished to pupils as provided in section 170.051, RSMo, it shall be transferred to the teachers'  
56 fund. The board may transfer the portion of the balance remaining in the incidental fund to the  
57 teachers' fund that is necessary for the total payment of all contracted obligations to teachers.

58 (2) If a balance remains in the debt service fund, after the total outstanding indebtedness  
59 for which the fund was levied is paid, the board may transfer the unexpended balance to the  
60 capital projects fund.

61 (3) If a balance remains in the bond proceeds after completion of the project for which  
62 the bonds were issued, the balance shall be transferred from the [incidental or] capital projects  
63 fund to the debt service fund.

64 (4) After making all placements of interest otherwise provided by law, a school district  
65 may transfer from the capital projects fund to the incidental fund the interest earned from  
66 undesignated balances in the capital projects fund. [All other sections of the law  
67 notwithstanding, a school district may transfer from the incidental fund to the capital projects  
68 fund an amount equal to the capital expenditures for school safety and security purposes.]

69 (5) A school district may borrow from one of the following funds: teachers' fund,  
70 incidental fund or capital projects fund, as necessary to meet obligations in another of those  
71 funds; provided that the full amount is repaid to the lending fund within the same fiscal year.

72 [(2) No school district shall make any expenditure for any lease purchase obligation  
73 authorized pursuant to section 177.088, RSMo, and incurred on or after January 1, 1997, from  
74 the district's capital projects fund unless the district levies, in the current year, a tax rate in the  
75 capital projects fund which is sufficient to generate revenues equal to or greater than the amount  
76 of such expenditure and collects such revenues and credits such revenues to the capital projects  
77 fund. For the purposes of subsection 8 of this section, any expenditure made in violation of this  
78 subdivision shall be considered a transfer of funds performed in violation of this section and that  
79 amount shall be deducted from the school district's state aid calculated pursuant to section  
80 163.031, RSMo, in the school year following the year such expenditure is made.]

81 3. (1) Tuition shall be paid from either the teachers' or incidental funds.

82 (2) **Any and all payments authorized pursuant to section 177.088, RSMo, except as**  
83 **otherwise provided in this subsection for the purchase or lease of sites, buildings, facilities,**  
84 **furnishings and equipment and all other expenditures for capital outlay shall be made**  
85 **from the capital projects fund.**

86 (3) **The school board may expend from the incidental fund:**

87 (a) **The sum that is necessary for the ordinary repairs of school property; and**

88 (b) **An amount not to exceed the sum of expenditures for classroom instructional**

89 **capital outlay, as defined by the department of elementary and secondary education by**  
90 **rule, in state-approved area vocational-technical schools; and**

91 **(c) The greater of twenty-five percent of the guaranteed tax base for the preceding**  
92 **year or two and one-fourth percent of the district's entitlement for the preceding school**  
93 **year as established pursuant to line 1 of subsection 6 of section 163.031, RSMo, as of June**  
94 **thirtieth of the preceding school year for classroom instructional capital outlay, including**  
95 **but not limited to payments authorized pursuant to section 177.088, RSMo.**

96 **(4) No school district shall make any expenditure for any lease purchase obligation**  
97 **authorized pursuant to section 177.088, RSMo, and incurred on or after January 1, 1997,**  
98 **from the district's capital projects fund unless the district levies, in the current year, a tax**  
99 **rate in the capital projects fund which is sufficient to generate revenues equal to or greater**  
100 **than the amount of such expenditure and collects such revenues and credits such revenues**  
101 **to the capital projects fund. For the purposes of subsection 8 of this section, any**  
102 **expenditure made in violation of this subdivision shall be considered a transfer of funds**  
103 **performed in violation of this section and that amount shall be deducted from the school**  
104 **district's state aid calculated pursuant to section 163.031, RSMo, in the school year**  
105 **following the year such expenditure is made.**

106 4. Other provisions of law to the contrary notwithstanding, the school board of a school  
107 district that satisfies the criteria specified in subsection 5 of this section may transfer from the  
108 incidental fund to the capital projects fund the sum of:

109 (1) The amount to be expended for transportation equipment that is considered an  
110 allowable cost under state board of education rules for transportation reimbursements during the  
111 current year; plus

112 (2) Any amount necessary to satisfy obligations of the capital projects fund for  
113 state-approved area vocational-technical schools; plus

114 (3) An amount not to exceed the greater of:

115 (a) The guaranteed tax base for the preceding year; or

116 (b) Nine percent of the district's entitlement for the preceding school year as established  
117 pursuant to line 1 of subsection 6 of section 163.031, RSMo, as of June thirtieth of the preceding  
118 school year; provided that transfer amounts authorized pursuant to this subdivision may only be  
119 transferred by a resolution of the school board approved by a majority of the board members in  
120 office when the resolution is voted upon and identifying the specific capital projects to be funded  
121 by the transferred funds and an estimated expenditure date; and provided that if a district did not  
122 maintain compliance with the requirements of section 165.016 the preceding year without  
123 recourse to a waiver for that year or a base year adjustment received that year or a fund balance  
124 exclusion unless the fund balance exclusion had also been used the second preceding year, the

125 transfer amount pursuant to this subdivision may be transferred only to the extent required to  
126 meet current year obligations of the capital projects fund.

127 5. In order to transfer funds pursuant to subsection 4 of this section, a school district  
128 shall:

129 (1) Meet the minimum criteria for state aid and for increases in state aid for the current  
130 year established pursuant to section 163.021, RSMo;

131 (2) Not incur a total debt, including short-term debt and bonded indebtedness in excess  
132 of fifteen percent of the guaranteed tax base for the preceding payment year multiplied by the  
133 number of resident and nonresident eligible pupils educated in the district in the preceding year;

134 (3) Set tax rates pursuant to section 164.011, RSMo;

135 (4) First apply any voluntary rollbacks or reductions to the total tax rate levied to the  
136 teachers' and incidental funds;

137 (5) In order to be eligible to transfer funds for paying lease purchase obligations:

138 (a) Incur such obligations, except for obligations for lease purchase for school buses,  
139 prior to January 1, 1997;

140 (b) Limit the term of such obligations to no more than twenty years;

141 (c) Limit annual installment payments on such obligations to an amount no greater than  
142 the amount of the payment for the first full year of the obligation, including all payments of  
143 principal and interest, except that the amount of the final payment shall be limited to an amount  
144 no greater than two times the amount of such first-year payment;

145 (d) Limit such payments to leasing nonathletic, classroom, instructional facilities as  
146 defined by the state board of education through rule; and

147 (e) Not offer instruction at a higher grade level than was offered by the district on July  
148 12, 1994.

149 6. [A school district shall be eligible to transfer funds pursuant to subsection 7 of this  
150 section if:

151 (1) Prior to August 28, 1993:

152 (a) The school district incurred an obligation for the purpose of funding payments under  
153 a lease purchase contract authorized under section 177.088, RSMo;

154 (b) The school district notified the appropriate local election official to place an issue  
155 before the voters of the district for the purpose of funding payments under a lease purchase  
156 contract authorized under section 177.088, RSMo; or

157 (c) An issue for funding payments under a lease purchase contract authorized under  
158 section 177.088, RSMo, was approved by the voters of the district; or

159 (2) Prior to November 1, 1993, a school board adopted a resolution authorizing an action  
160 necessary to comply with subsection 9 of section 177.088, RSMo. Any increase in the operating

levy of a district above the 1993 tax rate resulting from passage of an issue described in paragraph (b) of subdivision (1) of this subsection shall be considered as part of the 1993 tax rate for the purposes of subsection 1 of section 164.011, RSMo.

7.] Prior to transferring funds pursuant to subsection 4 of this section, a school district may transfer, pursuant to this subsection, from the incidental fund to the capital projects fund an amount as necessary to satisfy an obligation of the capital projects fund that satisfies at least one of the conditions specified in subsection [6] 7 of this section, but not to exceed its payments authorized under section 177.088, RSMo, for the purchase or lease of sites, buildings, facilities, furnishings, equipment, and all other expenditures for capital outlay, plus the amount to be expended for transportation equipment that is considered an allowable cost under state board of education rules for transportation reimbursements during the current year plus any amount necessary to satisfy obligations of the capital projects fund for state-approved area vocational-technical schools. A school district with a levy for school purposes no greater than the minimum levy specified in section 163.021, RSMo, and an obligation in the capital projects fund that satisfies at least one of the conditions specified in subsection [6] 7 of this section, may transfer from the incidental fund to the capital projects fund the amount necessary to meet the obligation plus the transfers pursuant to subsection 4 of this section.

**7. A school district shall be eligible to transfer funds pursuant to subsection 6 of this section if:**

**(1) Prior to August 28, 1993:**

**(a) The school district incurred an obligation for the purpose of funding payments under a lease purchase contract authorized under section 177.088, RSMo;**

**(b) The school district notified the appropriate local election official to place an issue before the voters of the district for the purpose of funding payments under a lease purchase contract authorized under section 177.088, RSMo; or**

**(c) An issue for funding payments under a lease purchase contract authorized under section 177.088, RSMo, was approved by the voters of the district; or**

**(2) Prior to November 1, 1993, a school board adopted a resolution authorizing an action necessary to comply with subsection 9 of section 177.088, RSMo. Any increase in the operating levy of a district above the 1993 tax rate resulting from passage of an issue described in paragraph (b) of subdivision (1) of this subsection shall be considered as part of the 1993 tax rate for the purposes of subsection 1 of section 164.011, RSMo.**

8. [Beginning in the 1995-96 school year,] The department of elementary and secondary education shall deduct from a school district's state aid calculated pursuant to section 163.031, RSMo, an amount equal to the amount of any transfer of funds from the incidental fund to the capital projects fund performed during the previous year in violation of this section; except that

197 the state aid shall be deducted in equal amounts over the five school years following the school  
198 year of an unlawful transfer provided that:

199 (1) The district shall provide written notice to the state board of education, no later than  
200 June first of the first school year following the school year of the unlawful transfer, stating the  
201 district's intention to comply with the provisions of subdivisions (1) to (4) of this subsection and  
202 have state aid deducted for that unlawful transfer over a five-year period;

203 (2) On or before September first of the second school year following the school year of  
204 the unlawful transfer, the district shall approve an increase to the district's operating levy for  
205 school purposes to the greater of: two dollars and seventy-five cents per one hundred dollars  
206 assessed valuation or the levy which produces an increase in total state and local revenues, as  
207 determined by the department, in comparison to the first school year following the school year  
208 of the unlawful transfer which is equal to or greater than the amount of state aid to be deducted  
209 pursuant to this subsection each school year for such unlawful transfer, provided that increases  
210 required pursuant to this subdivision for subsequent unlawful transfers shall be made in  
211 comparison to the latter tax rate described in this subdivision;

212 (3) During each school year after the school year in which the operating levy is increased  
213 pursuant to subdivision (2) of this subsection and in which state aid is deducted pursuant to  
214 subdivisions (1) to (4) of this subsection, the district shall maintain an operating levy for school  
215 purposes which produces total state and local revenues for the district which are no less than the  
216 total state and local revenues produced by the levy required pursuant to subdivision (2) of this  
217 subsection;

218 (4) During each school year state aid is deducted pursuant to subdivisions (1) to (4) of  
219 this subsection [except for the 1998-99 school year], the district shall maintain compliance with  
220 the requirements of section 165.016 without any recourse to waivers or base-year adjustments  
221 and without the option to demonstrate compliance based upon the district's fund balances; and

222 (5) If, in any school year state aid is deducted pursuant to subdivisions (1) to (4) of this  
223 subsection, the district fails to comply with any requirement of subdivisions (1) to (4) of this  
224 subsection, the full, remaining amount of state aid to be deducted pursuant to this subsection  
225 shall be deducted from the district's state aid payments by the department during such school  
226 year.

227 9. [On or before June 30, 1999, a school district may transfer to the capital projects fund  
228 from the balances of the teachers' and incidental funds any amount, but only to the extent that  
229 the amount transferred is equal to or less than the amount that the teachers' and incidental funds'  
230 unrestricted balances on June 30, 1995, exceeded eight percent of expenditures from the teachers'  
231 and incidental funds for the year ending June 30, 1995.

232 10. (1) Other provisions of law to the contrary notwithstanding, a school district which

233 satisfies all conditions specified in subdivision (2) of this subsection may make the transfer  
234 allowed in subdivision (3) of this subsection.

235 (2) To make the transfer allowed under subdivision (3) of this subsection, a school  
236 district shall:

237 (a) Have a membership count for school year 1997-98 which is at least sixteen percent  
238 greater than the district's membership count for the 1991-92 school year; and

239 (b) Have passed a full waiver of Proposition C tax rate rollback pursuant to section  
240 164.013, RSMo, or approved an increase to the district's tax rate ceiling on or after June 1, 1994;  
241 and

242 (c) Be in compliance or have paid all penalties required pursuant to section 165.016 for  
243 the 1994-95, 1995-96 and 1996-97 school years without waiver or adjustment of the base school  
244 year certificated salary percentage; and

245 (d) After all transfers, have a remaining balance on June 30, 1998, in the combined  
246 teachers' and incidental funds which is no less than ten percent of the combined expenditures  
247 from those funds for the 1997-98 school year.

248 (3) A district which satisfies all of the criteria specified in paragraphs (a) to (d) of  
249 subdivision (2) of this subsection may, on or before June 30, 1998, make a one-time combined  
250 transfer from the teachers' and incidental funds to the capital projects fund of an amount no  
251 greater than the sum of the following amounts:

252 (a) The product of the district's equalized assessed valuation for 1994 times the  
253 difference of the district's equalized operating levy for school purposes for 1994 minus the  
254 district's equalized operating levy for school purposes for 1993;

255 (b) The product of the district's equalized assessed valuation for 1995 times the  
256 difference of the district's equalized operating levy for school purposes for 1995 minus the  
257 district's equalized operating levy for school purposes for 1993;

258 (c) The product of the district's equalized assessed valuation for 1996 times the  
259 difference of the district's equalized operating levy for school purposes for 1996 minus the  
260 district's equalized operating levy for school purposes for 1993;

261 (d) The product of the district's equalized assessed valuation for 1997 times the  
262 difference of the district's equalized operating levy for school purposes for 1997 minus the  
263 district's equalized operating levy for school purposes for 1993; provided that the remaining  
264 balance in the incidental fund shall be no less than twelve percent of the total expenditures  
265 during that fiscal year from the incidental fund.

266 (4) A district which makes a transfer pursuant to subdivision (3) of this subsection shall  
267 be subject to compliance with the requirements of section 165.016 for fiscal years 1999, 2000  
268 and 2001, without the option to request a waiver or an adjustment of the base school year



269 certificated salary percentage.

270 (5) Other provisions of section 165.016 to the contrary notwithstanding, the transfer of  
271 an amount of funds from either the teachers' or incidental fund to the capital projects fund  
272 pursuant to subdivision (3) of this subsection shall not be considered an expenditure from the  
273 teachers' or incidental fund for the purpose of determining compliance with the provisions of  
274 subsections 1 and 2 of section 165.016.

275 **11.] 9. All other sections of the law notwithstanding, a school district may transfer**  
276 **from the incidental fund to the capital projects fund an amount equal to the capital**  
277 **expenditures for school safety and security purposes.**

278 **10.** In addition to other transfers authorized [under subsections 1 to 9 of] **pursuant to**  
279 this section, a district may transfer from the teachers' and incidental funds to the capital projects  
280 fund the amount necessary to repay costs of one or more guaranteed energy savings performance  
281 contracts to renovate buildings in the school district; provided that the contract is only for energy  
282 conservation measures, as defined in section 640.651, RSMo, **or energy cost-saving measures,**  
283 **as defined in section 8.231, RSMo,** and provided that the contract specifies that no payment or  
284 total of payments shall be required from the school district until at least an equal total amount  
285 of energy and energy-related operating savings and payments from the vendor pursuant to the  
286 contract have been realized by the school district.

287 [12.] **11.** In addition to other transfers authorized pursuant to [subsections 1 to 9 of] this  
288 section, any school district that has undergone at least a twenty-percent increase in assessed  
289 valuation from the preceding year because of the construction of a power plant may make a  
290 one-time transfer on the basis of each such increase, to the capital projects fund from the  
291 balances of the teachers' and incidental funds' unrestricted balances in an amount equal to twice  
292 the amount of such transfer otherwise permitted pursuant to this section for the year in which  
293 such one-time transfer is made; provided that such transfer shall be made prior to the end of the  
294 second fiscal year following the fiscal year in which the increase in assessed valuation is  
295 effective. Such one-time transfer may be made without regard to whether the transferred funds  
296 are used for current expenditures. No transfer shall be made pursuant to this subsection after  
297 June 30, 2003.

298 **12. School districts that have issued qualified zone academy bonds pursuant to 26**  
299 **U.S.C. Section 1397E, also known as the Taxpayers Relief Act of 1997, prior to December**  
300 **31, 2002, and have placed bond proceeds into an interest-bearing account in the capital**  
301 **projects fund without meeting the requirement to set a levy in the debt service fund as**  
302 **required in section 164.161, RSMo, shall be permitted to make transfers to the debt service**  
303 **fund in an amount up to but not exceeding the original amount of bond proceeds invested,**  
304 **under the following conditions:**

(1) The district has an unrestricted balance in the capital projects fund equivalent to the original amount of bond proceeds invested that may be transferred to the debt service fund; or

(2) If the district does not have sufficient unrestricted funds in the capital projects fund pursuant to subdivision (1) of this subsection, then additional funds may be transferred from the incidental fund to the debt service fund up to the amount needed to equal the original amount of bond proceeds invested, but such transfer in combination with other district expenditures may not reduce the ending fund balance in the combined teachers' and incidental funds below three percent balance of the expenditures in those funds;

(3) If the transfers allowed pursuant to subdivisions (1) and (2) of this subsection are not sufficient to equal the original amount of bond proceeds invested, the district must provide an annual tax in the debt service fund sufficient to generate the amount required within five years from the effective date of this section;

(4) The district shall report the following information as prescribed by the department of elementary and secondary education on the annual secretary of the board report required to be submitted pursuant to section 162.821, RSMo, for the fiscal year ending June 30, 2003:

(a) Documentation of the establishment of the local academy/business partnership and the ten percent business match for qualified zone academy bonds pursuant to 26 U.S.C. Section 1397E;

(b) A detailed schedule of completed and planned expenditures for the projects as specified in the department-approved qualified zone academy bond application, identified by building with certification by the district that a minimum of ninety-five percent of the voter-approved qualified zone academy bonds will be expended within three years from the date of the sale of bonds; and

(c) The business name, office location, state of incorporation, and names of any representative of the bonding institution and bond counsel, if applicable, who handled the qualified zone academy bond issuance, including all individuals who signed correspondence to or made presentations to the school district concerning such bonds; and providing the amount of fees or costs of issuance paid to the bonding institution and bond counsel stated as a whole dollar amount and as a percentage of the qualified zone academy bond;

(5) Any transfer made pursuant to subdivision (1) or (2) of this subsection shall be reported on the district's fiscal year 2003 financial records;

(6) If the district fails to provide the information in the manner prescribed by the

341 **department on the annual secretary of the board report by December 31, 2003, the amount**  
342 **of unrestricted fund balance transferred into the debt service fund from the capital**  
343 **projects fund or incidental fund shall be returned to the original fund from which the**  
344 **transfer was made and an annual tax established in the debt service fund sufficient to pay**  
345 **the principal and interest of the bonds as they fall due.**

Section B. Because immediate action is necessary to clarify the situation relating to  
2 qualified zone academy bonds, section A of this act is deemed necessary for the immediate  
3 preservation of the public health, welfare, peace, and safety, and is hereby declared to be an  
4 emergency act within the meaning of the constitution, and section A of this act shall be in full  
5 force and effect upon its passage and approval.